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Via Electronic Submission

January 17, 2023

Ann E. Misback
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551

RE: Guidelines for Evaluating Account and Services Requests [Docket No. OP-1788]

Dear Ms. Misback:

The Independent Community Bankers of America (ICBA)¹ appreciates the opportunity to provide comments to the Board of Governors of the Federal Reserve System (“Board”) regarding its proposal to produce a report of institutions with access to accounts and services at the Federal Reserve, i.e., Master Accounts. While ICBA fully supports increased transparency in master account access, especially clarification regarding novel requests, we have concerns with the publishing of institutions with access as proposed. We also reiterate previously noted concerns about unregulated fund access to master accounts.

Background

The Board has taken steps to increase transparency on the procedure used to grant access to Federal Reserve Bank accounts. In August 2022, the Board proposed a three-tier structure for

¹ *The Independent Community Bankers of America® creates and promotes an environment where community banks flourish. ICBA is dedicated exclusively to representing the interests of the community banking industry and its membership through effective advocacy, best-in-class education, and high-quality products and services.*

With nearly 50,000 locations nationwide, community banks constitute roughly 99 percent of all banks, employ nearly 700,000 Americans and are the only physical banking presence in one in three U.S. counties. Holding more than \$5.8 trillion in assets, over \$4.9 trillion in deposits, and more than \$3.5 trillion in loans to consumers, small businesses and the agricultural community, community banks channel local deposits into the Main Streets and neighborhoods they serve, spurring job creation, fostering innovation and fueling their customers’ dreams in communities throughout America. For more information, visit ICBA’s website at www.icba.org.

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due diligence and scrutiny for master account evaluation requests.² The Board, in response to public comments, further proposed on November 16, 2022, a notice and request for comment on publishing all institutions who have direct and indirect access to master accounts. The proposal is for a single report, with two lists. The first list is of federally insured depository institutions with access to accounts and services, the second list is of non-federally insured depository institutions with access to accounts and services. The report would list the institution's name and corresponding Federal Reserve District. The report would also contain a third section notating 1) institutions that have been granted access since the last publication and 2) institutions that no longer have access.

Subsequent to the publication in the Federal Register, Congress passed the 2023 NDAA Section 5708 which requires the Board to create and "maintain a public, online, and searchable database" of institutions that have access to a master account, as well as entities that have requested access to a master account.³ The database must be updated quarterly and include the status of any request for access, including whether a request was rejected. This act of Congress codifies the Board's Notice and Request for Comment before comments could be received and reviewed. ICBA is submitting this letter to comment on the provisions for the implementation of the law.

ICBA Comments

I. Access to master accounts should be limited to regulated funds to protect the integrity of the US financial system.

ICBA would be remiss, if during a discussion about institutions who have master account access, to not address lingering questions about novel entities seeking access to master accounts. Protecting the integrity and stability of the U.S. financial system is paramount. ICBA strongly reiterates previous statements that in order to maintain a financial system that is real, safe, and stable, access should be limited to funds that flow through regulated insured depository institutions ("regulated funds").⁴ Access to reserve accounts provides extraordinary benefit for financial institutions being able to clear and settle transactions in the central bank without concern for liquidity or credit risk. Transparency is strongly needed regarding those seeking access to master accounts, not those who have master accounts.

Keeping unregulated funds out of the U.S. financial system is critical to maintaining the safety and integrity of our payment system. As seen by the collapse of FTX and related crypto

² Docket No. OP-1747, Guidelines for Evaluating Account and Services Requests, August 19, 2022

³ Section 5708 of NDAA for FY 2023

⁴ ICBA Comment Letter, "Guidelines for Evaluating Account and Services Requests (Docket No. OP-1747)," Apr. 22, 2022, *available at* https://www.icba.org/docs/default-source/icba/advocacy-documents/letters-to-regulators/comments-on-fed-accounts-supplemental-proposal.pdf?sfvrsn=d02d1817_0.

institutions, there is risk in unregulated entities. Had any of these unregulated institutions been entering the Reserve Bank systems, the contagion could have extended to the stable U.S. payment systems and possibly caused a loss to the U.S. Treasury, and thus the U.S. taxpayer.⁵

Access to the U.S. financial system via a master account creates legitimacy for the institutions that access these services. The Federal Reserve Services are the keystone to maintaining financial stability in the U.S. payment system, and the world, by tandem. The U.S. payment system is built upon the strength of the participants who are rigorous in their management in all aspects of their institutions. It is important that those who have access to Federal Reserve Services are regulated by specialists who can review a financial institution's compliance with laws and generally accepted business practices and thus expect safety and soundness in the participants. ICBA has previously expressed concern granting novel charters access to master accounts.⁶

II. Potential unintended consequences of the Board's proposal

Apart from who has master account access, ICBA has several concerns about the form and substance of the proposed lists described more fully below.

A. The format of the single report will create confusion.

First, ICBA has concerns with the Board publishing a single report, comprised of two lists –one list of federally-insured institutions and another list of non-federally insured depository institutions –comprised of nearly 9,000 institutions by only name and Federal Reserve District.⁷ That amount of data will be confusing to the average consumer, due to the similarity of bank names, complexity of insured deposit funds, and size of the twelve Federal District banks.

Although Section 5708 requires the publication of a searchable database, it does not define how the list of entities would be accessed. As the Board will be defining the details of this database, ICBA strongly requests the Board resist the urge to use the proposed sortable list of institutions by name and district alone, while a database is developed.

⁵ U.S. taxpayers paid \$124 Billion in the 1980s due to the S&L crisis. (Kenneth J. Robinson, Federal Reserve Bank of Dallas, "Savings and Loan Crisis." Federal Reserve, Nov. 22, 2013). Crypto lost \$2 Trillion in value in 2022⁵ but did not cause a loss to the U.S. taxpayer. (Andrew Corkery, Juliet Fuisz, "After \$2 Trillion Crypto Crash, What Happens Next?", *PBS News Hour*, Jul 17, 2022, <https://www.pbs.org/newshour/show/after-2-trillion-crypto-crash-what-happens-next>). Unregulated crypto institutions did not have access to master accounts.

⁶ ICBA Comment Letter, "Guidelines for Evaluating Account and Services Requests (Docket No. OP-1747)," Apr. 22, 2022, *available at* https://www.icba.org/docs/default-source/icba/advocacy-documents/letters-to-regulators/comments-on-fed-accounts-supplemental-proposal.pdf?sfvrsn=d02d1817_0.

⁷ Footnote # 6, Docket No. OP-1788

There are over eight thousand financial institutions in the United States with frequent commonality in naming conventions. The most common bank names include variations of First Bank, Citizen, and Farmers & Merchant. According to ICBA research, over 900 banks share a name with another institution. There are 46 First State Banks, 14 alone in Texas. It would be difficult for an institution to be identified without knowing the city or state. Additionally, banks frequently have acronyms in their consumer facing marketing that might not match a name listed by the Board.

The geographic distinctions of Federal Reserve Banks by region serves to undermine the relationship banking model of community banks. For example, a consumer may be confused to find that their local Idaho community bank is linked to the San Francisco region of the Federal Reserve or that a Louisiana community bank is tied to Atlanta. Very few consumers are aware of Federal Reserve Bank districts which could needlessly create confusion for the public.

B. Insurance status of institutions

Second, ICBA is concerned that the list could be misused by unscrupulous actors and misunderstood by the general public, creating doubt over the safety and soundness of regulated and insured institutions. Although Section 5708 requires that the database identify the insurance status of the entity, dividing the report into two lists, federally insured and non-federally insured institutions is a disservice to consumers.

The term “insured depository institutions” is well-defined within the financial services industry but not commonly understood by the public.⁸ Further, given that the FDIC, and not the Board, manages and oversees deposit insurance, there is already a tool published by the FDIC enabling consumers the opportunity to search for and identify an insured bank.⁹ Federal Deposit Insurance does not cover all funds a consumer might have at an insured depository institution and the publication under the classification proposed serves to provide confusion. Additionally, many regulated institutions offer both federally insured and non-federally insured products. Products such as stock investments, bond investments, mutual funds, life insurance policies, annuities, safety deposit boxes, and their contents are not federally insured.

⁸ 12 U.S.C. 1813

⁹ <https://banks.data.fdic.gov/bankfind-suite/bankfind>

Accordingly, ICBA strongly recommends that the Board clearly state that an institution with a master account is not a determination of the insurability of deposits, safety and soundness of the institution, or any general government involvement or endorsement thereof.

III. Recommendations

Despite the concerns discussed above, ICBA is supportive of several provisions of the Board's proposal and offers recommendations that would augment the proposed guidelines.

A. Correspondent bank access

ICBA firmly supports the Board's proposal to list institutions with direct access and those with indirect access through a correspondent. ICBA respectfully asks that no distinction be made between direct and correspondent institutions that provide regulated funds into the U.S. financial system via their master account access. Community banks that utilize correspondent services are held to same safe and sound prudential standards as their direct master account peers.

B. Distinguishing novel institutions

ICBA greatly appreciates the Board noting the distinction between insured depository institutions that are regulated for safety and soundness from novel institutions that are seeking Federal Reserve access. ICBA supports disclosing entities that are not regulated and introducing unregulated funds into the U.S. payment systems.

ICBA strongly supports transparency regarding nonbank or novel chartered institutions seeking access to Federal Reserve Services. ICBA is supportive of the three-tiered system of treating regulated and insured institutions differently than unregulated and uninsured companies that seek to gain access to funds and an indicia of legitimacy through approved access to the Federal Reserve. The Board should do all it can to make sure that the funds that flow through the financial system are real, safe, and stable.

C. Transparency of the list

ICBA is aware that the recent NDAA section 5708 requires the Board to create and "maintain a public, online, and searchable database" of institutions that have access to a master account, as well as entities that have requested access to a master account. The database must be updated quarterly and include the status of any request for access, including whether a request was rejected.

To satisfy this requirement, ICBA recommends that access to the database only be granted after seeking a FOIA request. As stated in the notice for comment, the users of the E-Payments Routing Directory already have access to detailed information about institutions with master accounts. Access to public information does not mean accessing without adequate safeguards. While we do not object to legitimate inquiries for access, safeguards are imperative for ensuring that the available information is not used by cyber criminals, foreign nation states, terrorist organizations, and individuals banned from financial industries using this information in nefarious ways. Access to a Federal Reserve master account is not something an entity should need to communicate to the general public for the reasons outlined above. Transparency is essential regarding entities requesting master accounts, not for those who have master accounts.

IV. Responses to questions posed in the Request for Comment (RFC)

Question: Would the two data elements in the proposed Public Disclosure section appropriately balance providing public transparency with protecting information that institutions consider to be confidential?

ICBA Response: As stated previously, the two data elements of bank name and Federal Reserve District could create confusion for the average consumer. According to ICBA research, there are over 900 banks that share names or have similar names. Conversely, the results of a search might not produce a single institution. Additionally, as described above, Federal Reserve districts are not commonly known by the public.

Public information does not mean that the information is accessible without appropriate safeguards. ICBA supports providing the public with access to more robust information, but we recommend that a FOIA request be required for access to the Federal Reserve master account, as well as a log-in, or other similar credentialing requirement in order to ensure access by legitimate actors.

Question: Would the proposed publication schedule (quarterly cadence) appropriately balance providing timely transparency with reducing potential reputational harm to institutions that no longer have access to accounts and services? Would a less frequent cadence, such as semi-annual publication, strike that balance more effectively?

ICBA Response: The proposed schedule may present reputational harm to institutions that merge or are acquired as these processes take longer than one quarter to complete. Additionally, merged or acquired banks may continue to use the bank's original name for several months to ease the transition for existing customers, which may also harm an institution's reputation or lead to customer confusion. A Federal Reserve list should not imply that if a regulated bank changes its Federal Reserve master account status that it is no longer

regulated or insured, nor that the consumer's funds are at risk. The Board should ensure that the master account database does not inadvertently cause reputational harm or lead to confusion regarding the insurability of customer funds.

Question: Are there additional data elements for each institution with access to accounts and services that the Federal Reserve should consider publishing to provide greater transparency to the public (such as the date on which access was provided, to extent known, or removed, location of the institution, etc.)? Are there additional data elements that the Federal Reserve should avoid publishing to prevent potential harm to these depository institutions?

ICBA Response: The safety and soundness of the U.S. financial system needs to be protected. What is most important is who is asking for access to Federal Reserve master account and what type of funds they will be introducing to the U.S. economy. If the Federal Reserve via this RFC or via Section 5708 will be publishing every entity that submits an access request, ICBA respectfully asks that access not be granted until the request has been made public. This can be done via the quarterly publishing, or in a public notice with an opportunity for public comment. ICBA appreciates the effort to identify regulated institutions from possible unregulated novel entities.

Question: Are there additional actions that the Board or Reserve Banks should take to provide transparency with respect to accounts and services? For example, should the Board establish a requirement for the Reserve Banks to publish a list of institutions that have requested an account or access to services (including the date on which the request was submitted, rejected, or withdrawn, etc.)?

ICBA Response: Per our previous joint comments to the Board,¹⁰ request from Tier 2 and Tier 3 entities should include, at a minimum, public notice and an opportunity for stakeholders to comment on the application.

Conclusion

ICBA recommends that the database of entities with Federal Reserve master accounts be accessed in a way that will not confuse the general public about the safety, soundness and insurability of funds held at a regulated depository institution. The list of entities with access to a master account should not imply government endorsement of an entity. The safety and soundness of the U.S. payment system is jeopardized when unregulated, and even speculative sources of funds flow through the system via Federal Reserve access. Transparency is needed regarding those seeking access to master accounts, particularly those that pose significant

¹⁰ ICBA Comment Letter, "Guidelines for Evaluating Account and Services Requests (Docket No. OP-1747)," Apr. 22, 2022, available at https://www.icba.org/docs/default-source/icba/advocacy-documents/letters-to-regulators/comments-on-fed-accounts-supplemental-proposal.pdf?sfvrsn=d02d1817_0.

threat to the system through unregulated and uninsured entities, not those who have master accounts and operate pursuant to safe and sound prudential standards and oversight. If you have any questions, please do not hesitate to contact me at kari.mitchum@icba.org or 202-821-4445.

Sincerely,

/s/

Kari Mitchum
Vice President, Payments Policy

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